IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 541 OF 2006

Jaiprakash S. Devalapalli ... Petitioner

Versus

The State of Mah. and Ors. ...Respondents

Mr. P.M. Shah with Ms. Archana Gupte for Petitioner.

Mr. R.M. Sawant, Government Pleader for Respondents.

CORAM : F.I. REBELLO &
ANOOP V. MOHTA, JJ.
DATED : MARCH 20, 2006

P.C.

. The Petition earlier was filed as Public Interest Litigation. The learned Division Bench of this court by order of 22.2.2006 held that it cannot be treated as a public interest litigation but a private litigation. Hence,the matter is before this court.

. It is the case of the Petitioner that the Respondent No. 5 has constructed a building known as Bhumi Construction on the land which was surplus under U.L.C. Act. The Petitioner meets the

requirements and as such his application ought to have been considered for allotment of plot in the said premises.

. On behalf of the Respondents, the learned Government Advocate has taken us through various documents filed on record. The letter dated 30.8.2005 is the communication by the Additional Collector to the Petitioners and others setting out therein that the stand of Respondent No. 5 was that the construction was put up considering the permission under Section 22 of the UL (CR) Act, 1976. It was further pointed out that the building was not put up in the property known as Raheja Society but on the land bearing C.T.S. No. 520A, 520B and 520C. In response to subsequent communication of 20.9.2005, the Additional Collector once again replied that the building constructed by Respondent No. 4 is on the non vacant land and therefore, the question of exemption under section 20 does not arise. Inspite of this clarification, the petition filed by the Petitioner still proceeds on the footing that the construction is being constructed on the plot of

Raheja Society as excess vacant land. There is no averment in the petition also that Respondent No. 5 is the owner of the land. Even if excess land is to be considered in the case of rightful owner, what is to be examined is whether who is the owner of the excess land. the owner is not party here. There are no averments that Respondent No. 5 is the owner. In the circumstances, this will not be a fit case for this court to exercise its extra ordinary jurisdiction. Hence, Petition rejected.

(F.I. REBELLO,J.)

(ANOOP V. MOHTA,J.)